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March 10, 1993

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Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

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MAR 10 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


Re: MM Docket No. 92-308

Dear Ms. Searcy:

On behalf of Caroline K. Powley d/b/a Unicorn Slide, an applicant in the above-referenced matter, we hand you herewith an original and six copies of her "Comments on Request for Itemization of Expenses".

Kindly communicate with the undersigned should any question arise relative to this matter.

Sincerely yours,


B. Jay Baraff
Counsel for
Caroline K. Powley
d/b/a Unicorn Slide

Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

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MAR 10 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. 92-308
)	
Caroline K. Powley)	BPCT-900518KO
d/b/a UNICORN SLIDE)	
)	
TRUDY M. MITCHELL)	BPCT-900726KG
)	
For Construction Permit)	
Slidell, Louisiana)	
 To: Administrative Law Judge Richard L. Sippel		

COMMENTS ON REQUEST FOR ITEMIZATION OF EXPENSES

Caroline K. Powley d/b/a Unicorn Slide ("Powley"), by counsel, hereby submits her Comments on the "Request for Itemization of Expenses" ("Request") filed by Trudy M. Mitchell ("Mitchell") on March 5, 1993.

In her inappropriate Request, Mitchell betrays a fundamental misunderstanding of her role in this proceeding. Having reached what is assumed to be a good faith agreement with Powley for settlement of the above-captioned proceeding, and having agreed to a payment in the amount of \$35,000, the presumption under which the FCC proceeds is that she intends to live up to her contractual obligations. The matter of the level of "allowable" reimbursement of Powley's claimed expenses then becomes one for the Commission to consider. It is not a matter of Mitchell's

being satisfied, but rather it is the Commission which must be satisfied. (Indeed, the settlement agreement requires the parties to cooperate to assure Commission processing and grant. See Settlement Agreement, paragraph 5). The Request by Mitchell clearly has the potential of causing delay.

The tenor of Mitchell's request is resented by Powley, particularly since the Commission does not require legal counsel to provide the breakdown which Mitchell has sought. This was made specifically clear by the Commission in its Report and Order in MM Docket No. 90-263 (FCC 90-411, 68 RR 2d 960, 965 (1990)). Therein, the Commission stated that professional expenses "may be submitted in statement form." (68 RR 2d at 965). Further, the Commission stated (68 RR 2d at footnote 54) that "it would not be necessary, however, to submit detailed descriptions of the number of and job levels of persons providing professional services or information as to hours and billings for professionals of various job levels. Nevertheless, a brief description of the nature of the specific activity and its connection with the comparative new proceeding should be provided. For example, the following descriptive phrases would be acceptable: "meeting with opposing counsel in connection with settlement," "research in connection with preparing motion to enlarge." We believe the Judge will agree that Powley has met the Commission's current standards.

Moreover, the delineation by Mitchell of the various documents filed with the Commission by Powley is of course irrelevant, since there is no suggestion whatsoever that the scope of counsel's representation of Powley was limited to such filings. The inference Mitchell would apparently like to see drawn is that somehow the \$18,000 (in round numbers) for legal services have not been expended, which is of course an attack on the integrity of counsel, which is both gratuitous and unseemly.¹

Either Mitchell does not know or understand the law controlling the instant proceeding, or is indifferent to it. It is submitted that the Judge will properly deny her Request, and will, in the ordinary course, grant the Settlement Agreement, even in the unusual circumstances whereby one of the parties to the settlement is now essentially attacking it.²

Wherefore, the premises considered, it is requested that the Administrative Law Judge grant the relief sought by both parties in this proceeding, with whatever admonition

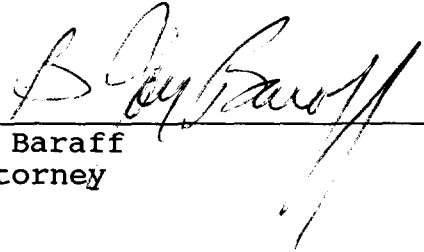
¹Similarly, there is not a scintilla of evidence to suggest that any of the expenses claimed by Powley have any relationship to any other application. This is a red herring raised by Mitchell (Request, Footnote 1), and should be rejected by the Judge out of hand.

²The legal implications of this attack by Mitchell on an agreement to which she is a signatory and under which she has legal obligations will, if required, be explored in an appropriate forum.

appears appropriate relating to the bizarre pleading filed
by Mitchell.

Respectfully submitted,

CAROLINE K. POWLEY
d/b/a UNICORN SLIDE

By: 
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Her Attorney

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March 10, 1993

CERTIFICATE OF SERVICE

I, Frances B. Brock, a secretary in the law offices of Baraff, Koerner, Olender & Hochberg, P.C., certify that on this 10th day of March, 1993, a copy of the foregoing "Comments on Request for Itemization of Expenses" was sent via first-class United States Mail, postage prepaid, to each of the following:

*Administrative Law Judge
Richard L. Sippel
Federal Communications Commission
2000 L Street, N. W.
Room 214
Washington, D.C. 20554

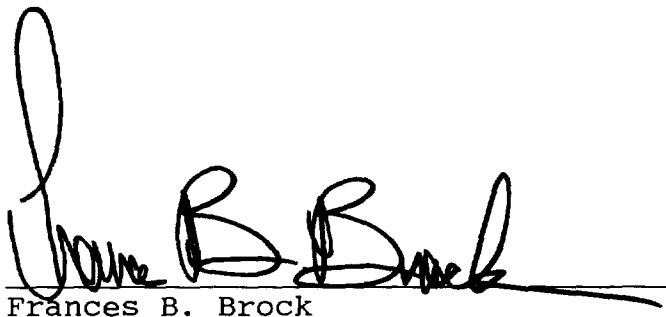
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A handwritten signature in black ink, appearing to read 'Frances B. Brock', with a long horizontal line extending to the right.

Frances B. Brock

*Delivered by Hand
26011/COS